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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,310	01/30/2004	James Robert Dupuy	018778-9224	6329
1131	7590	12/20/2005		
MICHAEL BEST & FRIEDRICH LLC 401 NORTH MICHIGAN AVENUE SUITE 1900 CHICAGO, IL 60611-4212			EXAMINER BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/768,310

Applicant(s)

DUPUY ET AL.

Examiner

Thomas J. Brahan

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-23, 26-32 and 36-40 is/are rejected.
- 7) ☒ Claim(s) 24, 25 and 33-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirement of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 16, 17, 20, 22, 28-32 and 36-40 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ringdahl et al, US Patent No. 6,053,693. Ringdahl et al shows a wheelchair lift comprising:

a platform (1) for carrying a passenger;

a lifting mechanism (motor 64, toggle link 86, lever arm 80 and ear 88; see figure 13A) secured at one end to a vehicle and at the other end to the platform (indirectly) adjacent to an inboard end of the platform for moving the platform between a ground level position, a transfer level position and a vertically stowed position, wherein the lifting mechanism comprises a vertical arm (86) secured adjacent to the inboard end of the platform;

a plate (barrier 16) pivotally connected to the inboard end of the platform and moveable between a raised barrier position and a lowered bridging position;

a first linkage (pivot arms 84 and 92, channel beam 93, slide shoe 102 and the two links extending from the slide shoe) extending between a location on the vertical arm (86) of the lifting mechanism and to the platform (note the first linkage is not connected directly to the vertical arm 86, but it extends past it as to read on the limitation "extending from a location on the arm) for moving the platform from the transfer level position to the vertically stowed position; and

a second linkage (120, 124, 130) extending between the plate (16) and to a location on the first linkage (at 92) for moving the plate between the raised barrier position and the lowered bridging position.

Lever arm (80) and ear (88) form a parallelogram structure, as recited in claim 17. The first linkage comprises arms (84, 93 and the links extending from slide shoe 102) having different lengths as to have a pair of arms of unequal lengths, as recited in claims 20 and 37. The first linkage has a first arm (84 or 92) extending from the lifting mechanism and a second arm (93 or the lower link of the slide shoe 102) extending from the platform, as recited in claim 22. Movement of the lifting mechanism acts on the first linkage during raising and lowering of the barrier (16), as recited in claims 28 and 30, through the second linkage (or actuator as denoted in the new claims), as recited in claims 29, 39 and 40. The second linkage (120, 124, 130) is an actuator coupling the linkage (84,92,93,103) and the plate for moving the plate between the raised barrier position and the lowered bridging position, as recited in new claim 36. The actuator (120, 124, 130) is coupled to two arms (92 or 93) of the linkage (84,92,93,103) that can be consider as longer than another arm of the pair of arms of unequal length, as recited in claim 38.

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3. Claims 24, 25 and 33-35 are objected as depending from rejected claims and would be allowable if rewritten in independent form including all of the limitations of the base claims and the intervening claims.

4. Applicant argues in the amendment filed October 11, 2005, that the arms 84 and 92 are part of lifting mechanism and not part of the linkage. However there are at least eight elements which extend between the lift motor and the platform. Applicant has denoted some of these elements as part of the lifting mechanism, some as part of the first linkage, and some as part of the second linkage (or actuator). As long as the claims only recite three "groupings" of elements, without specifying specific link "members" and with specific pivot locations, any of the eight elements can be considered in various manners as belonging to any the three claimed groups. There is no reason for the rejections to divide these elements into the same groupings as per applicant's disclosure, when the claims are much broader. Applicant's amendments caused the rewording of the above rejections and the new grounds, accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Brahan
Primary Examiner
Art Unit 3654